it cannot be said that the premises are being used for storing those articles; (2) in this case as it was shown that the timber was brought in the premises not for the purpose of being held in stock but as a necessary and transitory incident of the manufacturing processes which were being conducted on the premises, the premises were not being used for the purpose of storage.

MAGISTRATE'S APPEAL.

L. Rayner for the appellant.

H. B. Livingstone (Crown Counsel) for the respondent.

Whyatt C.J. : —This appeal raises a short but interesting point as to the meaning of storage in section 211 of the Municipal Ordinance.

The appellant carries on a joinery business at 99 Kampong Java Road. The premises are equipped with a large number of wood-working machines of various types and at the time of these proceedings five men were employed in the business. Furniture, window frames and a variety of wooden articles of all kind are manufactured from timber which is purchased by the appellant from time to time and brought on to the premises for the purpose of being fabricated into finished products.

According to the evidence, which was not challenged by the prosecution, the appellant waits until he gets a contract before purchasing timber and then, having obtained a contract, he buys the necessary timber to enable him to fulfil it. He stated in evidence that it takes about a week to turn the timber into the finished article and that at the time of the inspector's visit in this case, there were about four tons of timber on the premises and that he had contracts with the Public Works Department and the Base Ordnance Depot for the manufacture of furniture and window frames.

The question in this appeal is whether the premises at 99 Kampong Java Road on which the timber was being kept in the circumstances which I have described, were being used for storing timber within the meaning of that expression in paragraph (m) of section 211 of the Municipal Ordinance. It was contended on behalf of the Crown that any consumable article which is kept on premises for future use is being stored. But if the provisions of section 211 were construed in this wide sense, it would follow that every householder who brought wood, coal or any of the other articles mentioned in that section on to his premises, and kept them for use in the future instead of consuming them immediately would be storing them and consequently would require a licence from the Commissioners. If the test is merely between future use and immediate use, it cannot matter whether the article is kept for use in the near future or in the distant future, or whether the quantity involved is large or small; everything which is kept for future as opposed to immediate consumption falls within the scope of the section.

In my judgment this view of the meaning of storage in the present context is unsound. Without attempting an exhaustive definition of storage which would be impracticable since it is not possible to have in mind all the instances that may arise, I am of the opinion that where materials are brought on to manufacturing premises, as in this case, for the purpose of enabling the manufacturer to meet his current orders, it cannot be said that the premises are being used for storing those materials. The manufacturer is merely arranging that the raw materials which are necessary to ensure that the manufacturing processes are carried on continuously and smoothly are readily available on the premises; it would be wrong in my view to dissect his business by separating the supply of the raw materials from the manufacturing process and then to treat the former as if it were storage and therefore an end or purpose in itself.

The position might be otherwise if a manufacturer purchased materials in excess of his current requirements; in that event it might well be said he was maintaining stocks of raw materials on the premises and to that extent was using them for storage purposes. But where, as in the present case, the timber is brought on to the premises, not for the purpose of being held in stock but as a necessary and transitory incident of the manufacturing processes which are being conducted on the premises, then in my opinion the premises are not being used for the purpose of storage. Accordingly this appeal succeeds and conviction recorded in the Court below is set aside.

Appeal allowed.

Solicitors for the appellant: *L. Rayner & Co.*

SELAMAT BIN DARMO v. PUBLIC PROSECUTOR

[A. Cr. J. (Wilson J.) October 6, 1955]

[K. L. — Criminal Appeal No. 88 of 1955]

Rubber Supervision Enactment No. 10 of 1937, s. 38 — Prosecutions under this Enactment must be conducted by the Supervisor of Rubber or Deputy Supervisor or an officer appointed under the Enactment and specially authorised to do so.

In this case the appellant was convicted on a charge of purchasing 21 kts. of scrap rubber without a licence contrary to the Rubber Supervision Enactment. The prosecution was conducted by a Police Inspector.

Held: (1) all prosecutions under the Rubber Supervision Enactment must be conducted by the Supervisor or Deputy Supervisor or by any Officer appointed under

the Enactment and specially authorised to prosecute in writing by the Supervisor or a Deputy Supervisor; (2) there was no evidence in this case that the Police Inspector had any authority to prosecute and therefore the trial was a nullity.

The following cases were referred to by counsel in argument: *Gokulchand Dwarkadas v. R.* A.I.R. 1948 P.C. 82, 52 C.W.N. 325; *Kon Fatt Kiew v. Public Prosecutor* (1935) M.L.J. 239, (1935) F.M.S.L.R. 93; *R. v. Oliver* (1943) 2 All E.R. 800; *R. v. Sivaprakasam* (1938) M.L.J. 217; and *Lee Yew v. Public Prosecutor* (1953) M.L.J. 211.

MAGISTRATE'S CRIMINAL APPEAL.

C. O. G. Gould for the appellant.

M. M. Hashim (Federal Counsel) for the respondent.

Wilson J. : — The appellant was charged originally with having unlawful possession of 21 katties of scrap rubber, an offence against the Emergency (Rubber Control) Regulations, 1949. Police Inspector Abdul Kudus appeared for the prosecution and immediately withdrew the charge and substituted for it a charge of purchasing 21 katties of scrap rubber without a licence contrary to the Rubber Supervision Enactment No. 10 of 1937.

The accused claimed trial on the amended charge and was in due course convicted and fined $250. Section 38(ii) of Enactment No. 10 of 1937 reads as follows :—

"Any such prosecution may be conducted by the Supervisor, by any Deputy Supervisor or by any Officer appointed under this Enactment and specially authorised thereto in writing by the Supervisor or a Deputy Supervisor".

In my opinion it is quite clear that it was the intention that all prosecutions for offences under this Enactment should be under the control of the Supervisor of Rubber appointed under the Enactment. I am of opinion that all prosecutions must be conducted by the Supervisor or Deputy Supervisor, or by any officer appointed under the Enactment and specially authorised to prosecute in writing by the Supervisor or a Deputy Supervisor. There is nothing on the record to indicate that Police Inspector Abdul Kudus had any authority to prosecute in this case, and I therefore held the trial was a nullity and I allowed the appeal. The fine which has been paid must be repaid to the appellant.

An order was also made for the confiscation of the scrap rubber. I understand from Mr. Gould that the appellant does not ask for the rubber to be returned to him and I am not very surprised at this. However, the order of confiscation cannot stand and, subject to any further order that may be made in the event of the appellant being prosecuted again — which is possible as I hold the trial to have been a nullity — the rubber must eventually be disposed of in accordance with the usual procedure for disposal of exhibits in criminal cases.

Appeal allowed.

Solicitors for the appellant: *Lovelace & Hastings.*

HARDIAL SINGH & SONS LTD. v. PENINSULAR & ORIENTAL STEAM NAVIGATION CO. AND SINGAPORE HARBOUR BOARD.

[O. C. J. (Taylor J.) October 8, 1955]

[Singapore — Suit No. 2190 of 1953]

Bill of lading — Protection clause extending to agents of shipowners — Implied contract — Liability as warehousemen.

In this case the plaintiffs shipped 190 cases of piece goods on board a vessel of the 1st defendants to be carried from Japan to Singapore. By the terms of the bills of lading they were to take delivery alongside the steamer but in case they did not do so the shipowners had the option of delivering to the harbour authority at the port of destination, at the consignee's risk. The goods were delivered to the Harbour Board under this option, and the plaintiffs took delivery by instalments over a period of one month. Eventually they found that there was a shortage of one case, and made claims for non-delivery. The Court found as a fact that the 1st defendants had delivered the 190 cases to the Harbour Board and accordingly the case against them was dismissed with costs.

The Harbour Board submitted that they were relieved from liability by virtue of the contract of carriage contained in the bill of lading. The plaintiffs suggested that there was an implied contract between the consignees and the Harbour Board by which the latter undertook to store the goods safely. The Harbour Board denied any contractual relationship with the plaintiffs.

Held: (1) when the Singapore Harbour Board receive imported goods they do so as agents for the shipowners and their liabilities and immunities depend on the terms of the bill of lading; (2) in this case the shipowners, by the bill of lading, had contracted themselves out of liability for losses from the wharf; (3) in the circumstances of the case it was impossible to imply a contract between the Harbour Board and the plaintiffs.

Semble: if the goods are not collected within the normal period for delivery the Harbour Board may become liable as warehousemen.

Waters v. Dalgety (1) applied. **Firestone v. Singapore Harbour Board** (2) distinguished.

Cases referred to :—

(1) *Waters v. Dalgety* (1951) 2 Ll. L.R. 385.

(2) *Firestone v. Singapore Harbour Board* (1950) M.L.J. 47 and 131 (C.A.); (1952) M.L.J. 145 (P.C.).

(3) *Chartered Bank v. British India Steam Navigation* (1909) A.C. 369, 373.

CIVIL SUIT.

L. Rayner for the plaintiffs.

F. R. N. H. Massey for the 1st defendants.

C. H. Smith for the 2nd defendants.